

**To:** Jill M. Pietrini([trademarksCC@sheppardmullin.com](mailto:trademarksCC@sheppardmullin.com))  
**Subject:** U.S. Trademark Application Serial No. 97412525 - SALUTE THE SAMPLE - 71AK-308425  
**Sent:** May 11, 2023 01:31:14 PM EDT  
**Sent As:** [tmng.notices@uspto.gov](mailto:tmng.notices@uspto.gov)

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**Attachments**

**United States Patent and Trademark Office (USPTO)  
Office Action (Official Letter) About Applicant's Trademark Application**

**U.S. Application Serial No.** 97412525

**Mark:** SALUTE THE SAMPLE

**Correspondence Address:**

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**Applicant:** Smith, James Todd

**Reference/Docket No.** 71AK-308425

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**NONFINAL OFFICE ACTION**

**Response deadline.** File a response to this nonfinal Office action within three months of the “Issue date” below to avoid [abandonment](#) of the application. Review the Office action and respond using one of the links to the appropriate electronic forms in the “How to respond” section below.

**Request an extension.** For a fee, applicant may [request one three-month extension](#) of the response deadline prior to filing a response. The request must be filed within three months of the “Issue date” below. If the extension request is granted, the USPTO must receive applicant's response to this letter within six months of the “Issue date” to avoid abandonment of the application.

**Issue date:** May 11, 2023

This Office action is supplemental to the previous non-final Office action issued on March 3, 2023, in connection with this application. On May 3, 2023, applicant filed its Response to Office Action. Applicant's Response to Office Action raises a new issue that applicant must address; therefore, this nonfinal Office action is being issued to address the new issue. *See* TMEP §715.03(b).

Applicant's amended identification of services is accepted.

In a previous Office action dated March 3, 2023, the trademark examining attorney refused registration of the applied-for mark based on the following: (1) Identification of Services Requirement; (2) Explanation of Mark's Significance Requirement; and (3) Applicant's E-mail Address Requirement.

The trademark examining attorney notes that the following requirements are satisfied and/or obviated: (1) Explanation of Mark's Significance Requirement; and (2) Applicant's E-mail Address Requirement. *See* TMEP §§713.02, 714.04.

In addition, the trademark examining attorney notes that the following requirement is **maintained and continued**: **Identification of Services Requirement**. *See* TMEP §713.02.

The following is a SUMMARY OF ISSUES that applicant must address:

- NEW ISSUE: Disclaimer Required
- MAINTAINED ISSUE: Identification of Services Requirement

**Disclaimer Required:**

Applicant must disclaim the word "SAMPLE" because it is merely descriptive of a characteristic of applicant's services. *See* 15 U.S.C. §§1052(e)(1), 1056(a); *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 1251, 103 USPQ2d 1753, 1755 (Fed. Cir. 2012); TMEP §§1213, 1213.03(a).

In applicant's Response to Office Action, dated May 3, 2023, applicant indicates that "'SAMPLE' in Applicant's mark has some significance in modified form in the music industry, and is a 'term of art' within some aspects of Applicant's industry." Applicant further indicates that "SAMPLING" is the reuse of a portion of a sound recording in another recording." Accordingly, "SAMPLE" is merely descriptive of a characteristic of applicant's identified services--namely, the specific music-related field of use for applicant's identified services and non-downloadable prerecorded music that features music that is sampled.

Applicant may respond to this issue by submitting a disclaimer in the following format:

**No claim is made to the exclusive right to use "SAMPLE" apart from the mark as shown.**

For an overview of disclaimers and instructions on how to provide one using the Trademark Electronic Application System (TEAS), see the [Disclaimer webpage](#).

**Assistance:**

If applicant has questions regarding this Office action, please telephone or e-mail the assigned trademark examining attorney. All relevant e-mail communications will be placed in the official application record; however, an e-mail communication will not be accepted as a response to this Office action and will not extend the deadline for filing a proper response. *See* 37 C.F.R. §§2.62(c), 2.191; TMEP §§304.01-.02, 709.04-.05. Further, although the trademark examining attorney may provide additional explanation pertaining to the refusal(s) and/or requirement(s) in this Office action, the trademark examining attorney may not provide legal advice or statements about applicant's rights. *See*

TMEP §§705.02, 709.06.

**How to respond.** File a [response form to this nonfinal Office action](#) or file a [request form for an extension of time to file a response](#).

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## RESPONSE GUIDANCE

- **Missing the deadline for responding to this letter will cause the application to [abandon](#).** A response or extension request must be received by the USPTO before 11:59 p.m. **Eastern Time** of the last day of the response deadline. Trademark Electronic Application System (TEAS) [system availability](#) could affect an applicant's ability to timely respond. For help resolving technical issues with TEAS, email [TEAS@uspto.gov](mailto:TEAS@uspto.gov).
- **[Responses signed by an unauthorized party](#)** are not accepted and can **cause the application to [abandon](#)**. If applicant does not have an attorney, the response must be signed by the individual applicant, all joint applicants, or someone with [legal authority to bind a juristic applicant](#). If applicant has an attorney, the response must be signed by the attorney.
- If needed, **find [contact information for the supervisor](#)** of the office or unit listed in the signature block.

## United States Patent and Trademark Office (USPTO)

### USPTO OFFICIAL NOTICE

Office Action (Official Letter) has issued  
on May 11, 2023 for  
**U.S. Trademark Application Serial No. 97412525**

A USPTO examining attorney has reviewed your trademark application and issued an Office action. You must respond to this Office action to avoid your application abandoning. Follow the steps below.

- (1) **[Read the Office action](#)**. This email is NOT the Office action.
- (2) **Respond to the Office action by the deadline** using the Trademark Electronic Application System (TEAS). Your response, or extension request, must be received by the USPTO on or before 11:59 p.m. **Eastern Time** of the last day of the response deadline. Otherwise, your application will be [abandoned](#). See the Office action itself regarding how to respond.
- (3) **Direct general questions** about using USPTO electronic forms, the USPTO [website](#), the application process, the status of your application, and whether there are outstanding deadlines to the [Trademark Assistance Center \(TAC\)](#).

After reading the Office action, address any question(s) regarding the specific content to the USPTO examining attorney identified in the Office action.

### GENERAL GUIDANCE

- **[Check the status](#) of your application periodically** in the [Trademark Status & Document Retrieval \(TSDR\)](#) database to avoid missing critical deadlines.
- **[Update your correspondence email address](#)** to ensure you receive important USPTO notices about your application.
- **[Beware of trademark-related scams](#)**. Protect yourself from people and companies that may try to take financial advantage of you. Private companies may call you and pretend to be the USPTO or may send you communications that resemble official USPTO documents to trick you. We will never request your credit card number or social security number over the phone. Verify the correspondence originated from us by using your serial number in our database, [TSDR](#), to confirm that it appears under the “Documents” tab, or contact the [Trademark Assistance Center](#).
- **[Hiring a U.S.-licensed attorney](#)**. If you do not have an attorney and are not required to

have one under the trademark rules, we encourage you to hire a U.S.-licensed attorney specializing in trademark law to help guide you through the registration process. The USPTO examining attorney is not your attorney and cannot give you legal advice, but rather works for and represents the USPTO in trademark matters.